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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re D.J., a Person Coming Under the
Juvenile Court Law.

SAN FRANCISCO HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

M.G.,

Defendant and Appellant.

A148017

(San Francisco City & County
Super. Ct. No. JD143258)

I.

INTRODUCTION

Appellant M.G. (Mother) appeals from the juvenile court's order terminating reunification services with her 11-year-old son, D.J. Mother contends she was not provided reasonable reunification services between the six to 12-month review period. She argues she is entitled to an additional six months of services even though she was provided with more than 18 months of services in total. The juvenile court found the San Francisco Human Services Agency (the Agency) made reasonable efforts to provide Mother services throughout the reunification period. We affirm.

II.

FACTUAL AND PROCEDURAL BACKGROUND

We will briefly summarize the background of this case, which began with an initial referral when D.J. was one day old. D.J. was at risk due to Mother's history of mental illness, drug use, and her failure to reunify with her two older sons. D.J. was allowed to remain with Mother and the case was closed after two years. Between 2007 and the current petition in 2014, there were several unsubstantiated referrals for abuse.

On July 18, 2014, the Agency filed a juvenile dependency petition under Welfare and Institutions Code section 300.¹ It alleged Mother used inappropriate forms of physical discipline on D.J. and allowed her boyfriend to do the same. It also alleged Mother had two other children who had been removed from her care due to abuse and neglect. The detention report stated that police had been called to a bus stop because Mother was hitting D.J. in the face and he had a bloody nose. Mother was arrested.

The detention report included a letter from D.J.'s child psychologist, written before the bus stop incident, requesting Agency intervention. The psychologist reported to the Agency that Mother has "severe chronic mental illness." He felt D.J. was at

¹ All subsequent statutory references are to the Welfare and Institutions Code unless otherwise identified.

significant risk of harm due to neglect. At the detention hearing, the court ordered D.J. detained.

The jurisdiction and disposition report documented both Mother and D.J.'s mental health issues. Mother stated that D.J.'s behavior was beyond her control. D.J. was aggressive towards others, refused to follow directions, displayed sexualized behavior, and hit Mother. Mother had been diagnosed with depression, Post-Traumatic Stress Disorder (PTSD), and Bipolar Disorder. She was not taking her prescribed medication, and her mental health services were inadequate. The report recommended Mother receive care from a mental health professional. An addendum to the report filed on October 9, 2014, reported that Mother had not been cooperating with D.J.'s therapist.

Six-Month Status Review Period

In the six-month status report (filed March 2015), the Agency reported that Mother had been working with therapists at TALK Line² for over 10 years. In January 2015, Mother was offered a referral to an individual therapist, but she refused and wanted to continue at TALK Line. In February 2015, the social worker insisted and recommended Mother see an individual therapist and began to process a referral. Mother only attended about 50 percent of her family therapy sessions with D.J. during this period. Mother also failed to maintain regular phone contact with D.J. as required by the case plan, and failed to attend D.J.'s individual education plan meeting.

At the six-month review hearing on April 7, 2015, the court ordered continued reunification services.

12-Month Status Review Period

In the 12-month status review report filed in September 2015, the Agency recommended reunification services be terminated. Mother had completed parenting classes, met with her counselor at the Dudley Apartments³ weekly, and participated in 13

² TALK Line is a family support center where therapeutic services are provided by interns. Mother would often talk to a different person each time she called.

³ The Dudley Apartments is the supportive housing community where Mother lived.

out of 17 family therapy sessions. The family therapist felt Mother needed individual therapy. Mother often used the family therapy sessions to address her issues rather than focusing on D.J.

Social worker Cindy Nguyen had referred Mother to the SOMA Mental Health Clinic for individual therapy on March 10, 2015. Mother delayed her initial visit to the clinic for three months. When she finally visited the clinic, she was informed that they were referring patients to the Mission Mental Health Clinic.

Nguyen reported meeting with Mother in person to encourage her to attend individual therapy nine times between March and September 2015. Nguyen also discussed Mother's therapy with her counselor at the Dudley Apartments. Mother stated she had been seeking therapy with Marva Edwards at TALK Line, but she failed to submit a release to allow the Agency to consult with Edwards.

On September 3, 2015, Mother informed Nguyen that she had an individual therapist, Stephanie Hall, and they were meeting once per week since August 2015. Mother could not provide information about where Hall worked, so the Agency was unable to confirm this information.

The report concluded Mother had failed to engage in regular, ongoing individual therapy with a qualified professional. Mother had mental health needs that were untreated. Mother believed her problems with D.J. were due to his behavioral and mental health issues, not her own. Mother was not fully engaged in the family therapy sessions and was not addressing her unhealthy relationship with D.J.

During the initial 12 months, D.J. struggled at his placements. After four failed intensive treatment foster care placements, D.J. was placed at St. Vincent's School for Boys. He continued to have behavioral and emotional issues. He suffered from PTSD, Attention-Deficient Hyperactivity Disorder (ADHD), and depression. He had aggressive episodes where he threw rocks at St. Vincent's staff, kicked them, and threatened to kill them. Nevertheless, overall, he was calmer and his behavior was better at this placement than at prior placements.

The 12-month review hearing was originally set for October 2015, but was continued to December 2015. At the hearing on December 15, 2015, the Agency withdrew its recommendation to terminate services because of the delays in the hearing date, and it stated it would offer Mother 18 months of services.

In an addendum to the status report filed in January 2016, the Agency again recommended the court terminate reunification services. The report stated Mother remained unable to provide D.J. with the physical and emotional safety he needed. Mother has two older children who have been in foster care since before D.J. was born, and despite receiving years of services, she was still unable to provide a safe, stable home.

Combined 12 and 18-Month Review and Permanency Hearing

The contested combined 12 and 18-month permanency hearing was held over several days on February 5, March 9, March 22, and April 7, 2016. Social worker Nguyen's supervisor, Eileen Cavan, testified that one of the most important reunification services was individual therapy for Mother and it had not happened. Mother was insistent she wanted to continue working with TALK Line where she did not have an individual therapist. Mother continued to refuse to sign a release so the Agency could communicate with the TALK Line therapists about Mother's treatment. In 18 months' time, Mother had not "adequately addressed her mental health issues."

Mother still was not allowed unsupervised visits or phone calls with D.J. due to her inappropriate behavior. Cavan testified that Mother's mental health was not stable enough to allow her to parent D.J., who also had many mental health issues. She understood that at the 18-month point, the Agency either must terminate services or return the child to the parent's care, and it was not safe to return D.J. to Mother.

On cross-examination, Cavan testified that after the 12-month review date, Nguyen submitted a referral to the Foster Care Mental Health program on October 7, 2015. Nguyen also asked Cavan for a list of individual therapists for Mother. Mother had been seeing an individual therapist from November 2015 to March 2016.

Joel Gilbert testified he provided individual therapy to D.J. and family therapy to D.J. and Mother. Gilbert stated Mother needed individual therapy because she could not set appropriate boundaries with D.J. Mother burdened D.J. with adult information that made him feel “unsafe.” It was Gilbert’s opinion that D.J. should not be returned to Mother’s care.

Gilbert testified about Mother’s inconsistent participation in family therapy and her repeated practice of arriving late, which caused D.J. anxiety. He provided a recent example: Mother missed their last Tuesday appointment and St. Vincent’s was unable to reach her for two days, causing D.J. to fear Mother had died.

Mother’s counsel argued she was not provided with reasonable reunification services because she was not referred to Foster Care Mental Health until March 2015, and the mental health services were not tailored to Mother’s unique needs.

The Agency argued that because they had reached the 18-month point, the issue before the court was whether D.J. should return home or services should be terminated. Mother was given a referral and did not act on it for at least three months and Mother refused to sign a release for the Agency to connect with her counselors at TALK Line. Nguyen repeatedly counseled and encouraged Mother to begin individual therapy. When Mother finally went to the SOMA Mental Health referral, it was not taking new patients, so Nguyen referred her to Mission Mental Health. Mother did not like the location. The parent has the responsibility to follow through with the referral and attend the appointments.

The court adopted the Agency’s recommendation to terminate services to Mother. The court stated it went through the entire file and at the time that was scheduled for the 12-month review hearing, October 6, 2015, Mother had not successfully obtained individual therapy. The court reviewed the record for the period between the six-month and 12-month review and concluded “reasonable efforts were made.” Mother delayed three months on the initial referral before going to SOMA Mental Health, and she was referred to another provider but did not like the location. The social worker had

numerous conversations with Mother “encouraging her and clarifying with her the importance of engaging in services.”

The Agency also made reasonable efforts during the 12 to 18-month review period. The court concluded that upon reaching the 18-month mark, D.J. should not be returned to Mother because of the substantial risk to his safety and emotional well being. The court terminated reunification services. The court ordered D.J. to continue in his placement and Mother to continue to participate in family therapy with him.

III.

DISCUSSION

We review the juvenile court’s finding of reasonableness of offered services under the substantial evidence test. (*Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1345 (*Amanda H.*)) “[O]ur sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court’s finding that reasonable services were provided or offered. [Citations.]” (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762). “ ‘When the sufficiency of the evidence to support a finding or order is challenged on appeal, even where the standard of proof in the trial court is clear and convincing evidence, the reviewing court must determine if there is any substantial evidence—that is, evidence which is reasonable, credible and of solid value—to support the conclusion of the trier of fact. [Citations.]’ [Citation.]” (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 971 (*Alvin R.*)).

A. Mother Received Reasonable Reunification Services

The “ ‘adequacy of reunification plans and the reasonableness of the [Agency’s] efforts are judged according to the circumstances of each case.’ [Citation.] To support a finding reasonable services were offered or provided, ‘the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult’ [Citation.]” (*Tracy J. v. Superior Court* (2012) 202 Cal.App.4th 1415, 1426 (*Tracy J.*)). “In almost all cases it

will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547; see also *Alvin R.*, *supra*, 108 Cal.App.4th at p. 972 [“[r]eunification services need not be perfect”].)

Social worker Nguyen’s efforts in encouraging Mother to participate in individual therapy distinguish this case from *In re K.C.* (2012) 212 Cal.App.4th 323, 329 (*K.C.*), cited by Mother. In *K.C.*, the appellate court found the social services agency had not provided sufficient assistance to a parent in obtaining a psychotropic medication evaluation. The agency’s “only attempt” to secure the medication was to send the parent to a public clinic, and when he was rejected on three separate visits, the agency made no attempt to help the parent obtain other services. (*Id.* at p. 329.) The agency delegated the burden of finding and obtaining suitable services to the parent. (*Id.* at p. 330.)

Similarly, in the other case relied upon by Mother, *In re Taylor J.* (2014) 223 Cal.App.4th 1446 (*Taylor J.*), the appellate court concluded that the mother had not been provided with reasonable services. “Family reunification services are not ‘reasonable’ if they consist of nothing more than handing the parent a list of counseling agencies when the list contained the name of only one domestic violence victim counseling agency in proximity to [m]other’s home.” (*Id.* at p. 1452.) The agency failed to assist the mother in finding approved programs she could afford. (*Ibid.*) The remedy was for the agency to provide an additional period of services. (*Id.* at p. 1453; *In re J.E.* (2016) 3 Cal.App.5th 557, 567 (*J.E.*) [agency fails to provide reasonable reunification services when it does not address “the core issue” or the primary barrier to reunification].)

Neither *Taylor J.* nor *K.C.* supports Mother’s argument because, unlike those cases, we conclude the Agency made reasonable efforts to provide Mother with reunification services. Mother completed parenting classes, met with her counselor at the Dudley Apartments weekly, and participated in 13 out of 17 family therapy sessions during the relevant period. But Mother resisted participating in individual therapy. By

her own choice, Mother received counseling from TALK Line where she spoke to different people each time she called. She also refused to sign a release for the Agency to communicate with the therapists there. When Nguyen provided her a referral to SOMA Mental Health, she waited three months to act on the referral by which time, they were not accepting new patients. When she was referred to an alternative provider, she did not like the location so she did not engage in services there.⁴

Mother contends Nguyen did “virtually nothing” to assist Mother with her reunification plan, and the Agency cannot simply provide a referral and then “sit back and watch the parent fail to participate” in services. The record, however, demonstrates that Nguyen actively encouraged Mother to obtain individual therapy. During the relevant six-month period, Nguyen met with Mother in March, April, May, June, July, August, and September 2015. The juvenile court found Nguyen had numerous conversations with Mother “encouraging her and clarifying with her the importance of engaging in the services.” Mother preferred TALK Line and ignored the Agency’s repeated requests to obtain additional individualized therapy until after 12 months of services had been provided.

Mother’s resistance limited the Agency’s ability to provide her with the services she needed for reunification. (See *In re Christina L.* (1992) 3 Cal.App.4th 404, 417-418 [parent’s resistance to participating in services supported conclusion agency made a good faith effort to provide services under the circumstances].)

Mother argues the Agency should have done more during the six to 12-month period. But Mother’s criticism of the social worker’s efforts does not establish a lack of substantial evidence supporting the juvenile court’s finding. Even assuming the Agency

⁴ Mother argues she was turned away from Mission Mental Health because she did not qualify for services, but there is no support for this in the record. The Agency’s report stated Mother went twice but did not like the “inconvenience of the location.” Mother’s counsel suggested Mother was turned away because she did not meet their criteria, but Cavan testified that she could not verify that information and it was not included in the report.

could have done more, the services the Agency did provide were reasonable under the circumstances of this case. (*In re Misako R.*, *supra*, 2 Cal.App.4th at p. 547).

Reunification services are voluntary and cannot be forced on an unwilling parent. (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233.) A social worker is not required to “ ‘take the parent by the hand and escort him or her to and through classes or counseling sessions.’ ” (*Ibid.*) The Agency took reasonable steps to guide Mother to appropriate mental health treatment, but Mother refused to take advantage of what was offered to her during the initial 12 months of reunification services.⁵

Finally, we note that that the remedy for the Agency’s failure to provide reasonable services during the six to 12-month period would be for the Agency provide an additional period of services. (*Taylor J.*, *supra*, 223 Cal.App.4th at p. 1453; *Alvin R.*, *supra*, 108 Cal.App.4th at p. 975; § 361.5, subd. (a)(3).) In fact, Mother received services for an additional nine months and she does not contest the reasonableness of those services. Thus, the court’s finding that reasonable services were provided is supported by substantial evidence. Despite the lengthy period of services, Mother was still unable to provide a safe and stable home for D.J. or to cope adequately with his mental health issues.

B. Mother Was Not Entitled to a Further Extension of Services

Mother argues the juvenile court had the discretion to extend services beyond the 18-month mark. The Agency argues that at the time of the combined 12-18-month review hearing, the juvenile court lacked the discretion to provide an additional period of reunification services because Mother could not demonstrate any exceptional circumstances warranting an extension. We agree with Mother that the court *could* have extended services up to 24 months, but this does not mean that the court *must* extend services when, as here, it concluded that the Agency had already provided reasonable services.

⁵ Mother did not engage with an individual therapist until November 2015, nearly 14 months after dependency was initiated.

At the 18-month hearing, “[t]he minor must either be returned to the physical custody of his or her parent or the court must terminate reunification services and set a hearing for the selection and implementation of a permanent plan.” (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1015 (*Mark N.*)). It is, however, within the court’s discretion under section 352 to continue the 18-month review hearing and extend reunification services up to 24 months upon a showing of good cause. (*J.E., supra*, 3 Cal.App.5th at pp. 563-564.)

Sections 361.5, subdivision (a)(4) provides that court-ordered services may be extended up to a maximum of 24 months after the child is removed pursuant to a hearing under section 366.22, subdivision (b).⁶ These provisions allow the court discretion to continue an 18-month hearing and extend services under section 352. (*J.E., supra*, 3 Cal.App.5th at pp. 564-565.) These amendments specifically address parents in substance abuse programs or who have been recently released from incarceration, but Division Three of this court held section 366.22, subdivision (b) “did not limit the court’s discretion to extend services based on a finding that reasonable reunification services were not provided.” (*J.E.*, at pp. 564-565; see also *Mark N., supra*, 60 Cal.App.4th at p. 1016 [§ 366.26, subd. (c)(2) precluded termination of parental rights when the agency failed to offer or provide reasonable reunification services to a parent throughout the

⁶ Section 366.22, subdivision (b) provides in part: “If the child is not returned to a parent or legal guardian at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to a parent or legal guardian who is making significant and consistent progress in a court-ordered residential substance abuse treatment program, a parent who was either a minor parent or a nonminor dependent parent at the time of the initial hearing making significant and consistent progress in establishing a safe home for the child’s return, or a parent recently discharged from incarceration, institutionalization, or the custody of the United States Department of Homeland Security and making significant and consistent progress in establishing a safe home for the child’s return, the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian.”

reunification period, and the juvenile court had limited discretion under section 352 to continue services].)

Here, the juvenile court specifically found that Mother had been provided with reasonable reunification services. The juvenile court need not exercise its discretion to extend services where it finds the Agency provided reasonable services for all, or even most, of the reunification period. (*Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1507 [where father stipulated that the agency provided reasonable reunification services during 12 of the 18 months of services, the exception in *Mark N.* has no application].)

Furthermore, Mother has not raised any exceptional circumstances warranting the extension of services. (See *Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1510-1511.) Mother received family therapy, took parenting classes, worked with counselors at TALK Line and finally engaged in individual therapy in November 2015. In addition, Mother had received years of services prior to the current petition with both D.J. and her older two children. Even with 21 months of services, Mother did not behave appropriately in family therapy, she could not have unsupervised visits or phone calls with D.J., and the family therapist stated she made D.J. feel “unsafe.” The juvenile court concluded that Mother had not adequately addressed her mental health issues or demonstrated she could provide a safe, stable home for D.J. who had substantial mental health issues of his own. This conclusion is amply supported by the record.

IV.

DISPOSITION

The juvenile court’s order terminating reunification services is affirmed.

RUVOLO, P. J.

We concur:

REARDON, J.

STREETER, J.